

**UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD**

La Touraine LLC d/b/a  
Sofitel Chicago Magnificent Mile

and

Case No. 13-CA-236423

UNITE HERE Local 1

**UNOPPOSED MOTION**

**TO ALLOW LATE FILING OF EXCEPTIONS BRIEF**

COMES NOW the above Respondent La Touraine LLC d/b/a Sofitel Chicago Magnificent Mile (“Respondent”), by counsel, and moves this Court to accept the late filing of its Exceptions Brief to the National Labor Relations Board, and shows the following:

1. On August 22, 2019, the hearing in this case was held before Administrative Law Judge Geoffrey Carter in Chicago, Illinois.
2. On October 18, 2019, the parties submitted their post-hearing brief to the Judge.
3. On November 15, 2019, the Judge issued his Decision, ruling against Respondent. Exceptions Briefs were given a deadline of December 13, 2019.
4. On November 25, 2019, counsel for Respondent sought a 10-day extension of time from the Office of Executive Secretary, to submit its Exceptions Brief by December 23, 2019, due to a pre-planned vacation out of the country.
5. On November 26, 2019, the Office of Executive Secretary granted Respondent’s request.
6. On the afternoon of December 23, 2019, the undersigned – Karl Terrell, counsel for Respondent – was nearly finished working on the exceptions brief. Mr. Terrell was working in

his Atlanta residence at the time, on the 12<sup>th</sup> floor of a 14-story building, and coordinating with his assistant Felicia Brogden – who was in his firm’s office – in getting the document finalized and e-filed by the end of the day.

7. Around 2:45 pm, a fire alarm in Mr. Terrell’s building was set off. Mr. Terrell was directed to leave the building by a recorded announcement accompanying the alarm sound. This was an actual fire alarm, not a planned drill. Mr. Terrell was not able to re-enter the building and continue working until approximately 4 pm. Shortly thereafter, at 4:32 pm, Mr. Terrell sent the following email – copy attached – to counsel for the General Counsel assigned to this case and explained these circumstances, with additional detail, and requested consent to this extension:

Kevin,

My exceptions brief is due today. I was on track to have my office e-file this today around 5 pm ET, when around 2:45 pm a fire alarm in the building where I live in Atlanta went off. Causing me to walk down 12 flights, etc.

For purposes of verite, here’s a photo from the outside while waiting to get back in — about 30 minutes ago now.

Anyway, my carefully timed plan, after 3, was to finish a couple of paragraphs, have my office auto-add a table of contents and table of authorities, and then do a final proof by 5 pm. This was made impossible. I have a dinner commitment this evening with a large group, and my assistant Felicia (copied here) also has a commitment she can’t break. Consequently, I cannot complete the brief this evening.

Tomorrow, and of course Wednesday (Christmas Day), our office is fully closed, and I am wholly dependent on Felicia to get this properly e-filed.

I need an extension, therefore, to Thursday morning, and am asking for your consent to permit the late filing. We will submit a simultaneous formal request

Thank you,

Karl M. Terrell

STOKES WAGNER

404-693-5777 c

8. As the attached email chain reflects, Mr. Kevin McCormick was out of his office. Per the direction of Mr. McCormick's auto-reply, Mr. Terrell then sent an email to his supervisor, Board counsel Kate Gianopulos. See attached, as part of the same chain. This email explained also the following: "I do not have a counsel contact for UNITE-HERE, nor do I recall counsel from the union involved. (A representative of the union, Elliott Mallen, was present at the hearing, but I cannot find an email address, and it's not in the transcript.)"

9. Ms. Gianopulos then telephoned Mr. Terrell. She confirmed on behalf of the Region that this request for permission to file late would not be opposed. See confirmation of this in the attached email to Judge Carter, copied to Ms. Gianoplus.

Respectfully submitted, this 26<sup>th</sup> day of December 2019.

**STOKES WAGNER, ALC**

/s/ Karl M. Terrell

Arch Stokes

Karl M. Terrell

One Atlantic Center, Suite 2400

1201 West Peachtree Street

Atlanta, GA 30309

(404) 766-0076 (Tel)

(404) 766-8823 (Fax)

*Counsel for Respondent*

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 13**

LA TOURAINE LLC d/b/a SOFITEL CHICAGO -  
MAGNIFICENT MILE

and

Case No. 13-CA-236423

UNITE-HERE LOCAL 1

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of Respondent's Unopposed Motion to Allow Late Filing of Exceptions Brief was electronically filed with Region 13 and the Board by using the NLRB's electronic filing system on its website: <http://www.nlr.gov> and E-mailed to counsel below:

Kevin McCormick, Esq.  
Kate Gianopulos, Esq.  
National Labor Relations Board, Region 13  
219 South Dearborn, Room 808  
Chicago, IL 60604  
(312)353-7594  
[Kevin.mccormick@nlrb.gov](mailto:Kevin.mccormick@nlrb.gov)  
[Kate.gianopulos@nlrb.gov](mailto:Kate.gianopulos@nlrb.gov)

David Barber, Esq.  
McCracken, Stemerman & Holsberry, LLP  
595 Market Street, Suite 800  
San Francisco, CA 94105  
[dbarber@msh.law](mailto:dbarber@msh.law)

Unite Here, Local 1  
Marcos Feldman  
218 S. Wabash Ave, 7<sup>th</sup> Floor  
Chicago, IL 60604  
[mfeldman@unitehere.org](mailto:mfeldman@unitehere.org)

Geoffrey Carter, ALJ  
NLRB  
1015 Half Street SE  
Washington, DC 20570  
[Geoffrey.carter@nlrb.gov](mailto:Geoffrey.carter@nlrb.gov)

Dated: December 26, 2019

*/s/ Karl Terrell*

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Karl Terrell

**Subject:** Re: La Touraine LLC d/b/a Sofitel Chicago Magnificent Mile and UNITE-HERE, Local 1; case no. 13-CA-236423 / emergency need for short extension  
**Date:** Monday, December 23, 2019 at 5:57:13 PM Eastern Standard Time  
**From:** Karl M. Terrell  
**To:** Carter, Geoffrey  
**CC:** Gianopulos, Kate, McCormick, Kevin, Felicia M. Brogden

Understood. Thank you.

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**From:** "Carter, Geoffrey" <Geoffrey.Carter@nlrb.gov>  
**Date:** Monday, December 23, 2019 at 5:44 PM  
**To:** "Karl M. Terrell" <kterrell@stokeswagner.com>  
**Cc:** "Gianopulos, Kate" <Kate.Gianopulos@nlrb.gov>, "McCormick, Kevin" <Kevin.McCormick@nlrb.gov>, "Felicia M. Brogden" <fbrogden@stokeswagner.com>  
**Subject:** Re: La Touraine LLC d/b/a Sofitel Chicago Magnificent Mile and UNITE-HERE, Local 1; case no. 13-CA-236423 / emergency need for short extension

Since this case is before the Board (not the division of judges), I do not have jurisdiction over your request. A board official such as the executive secretary would be the one to contact.

Regards,  
Judge Carter

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**From:** Karl M. Terrell <kterrell@stokeswagner.com>  
**Sent:** Monday, December 23, 2019 5:29 PM  
**To:** Carter, Geoffrey  
**Cc:** Gianopulos, Kate; McCormick, Kevin; Felicia M. Brogden  
**Subject:** FW: La Touraine LLC d/b/a Sofitel Chicago Magnificent Mile and UNITE-HERE, Local 1; case no. 13-CA-236423 / emergency need for short extension

Judge Carter,

Please see below my request sent this afternoon to counsel for the General Counsel Kevin McCormick in this case, seeking his consent to my need for an emergency extension, and describing my situation making this necessary.

As you'll see in the chain below, I then contacted CGC Kate Gianopulos, who then telephoned me about 10

minutes ago.

Ms. Gianopulos, copied here, said the Region does not object to my request to file my exceptions brief on Thursday, the day after Christmas. She suggested I file an EOT today with the Division of Judges, but this is not possible for me to do at this moment (for the reasons indicated in my first email to Mr. McCormick).

Hence, for the moment, I am doing the best I can by alerting you. The brief will be filed Thursday, and whatever formal filing is needed with the Division of Judges can be done simultaneously.

Thank you for your time. Happy holidays.

Karl M. Terrell  
STOKES WAGNER

404-693-5777 c

On 12/23/19, 4:57 PM, "Karl M. Terrell" <kterrell@stokeswagner.com> wrote:

Ms. Gianopulos,

I am forwarding this to you, per direction of Kevin McCormick's out-of-office auto-reply.

This relates to:

La Touraine LLC d/b/a Sofitel Chicago Magnificent Mile and UNITE-HERE, Local 1; case no. 13-CA-236423.

I do not have a counsel contact for UNITE-HERE, nor do I recall counsel from the union involved.

(A representative of the union, Elliott Mallen, was present at the hearing, but I cannot find an email address, and it's not in the transcript.)

Thank you for your consideration of my need described below.

Karl M. Terrell  
STOKES WAGNER

404-693-5777 c

On 12/23/19, 4:32 PM, "Karl M. Terrell" <kterrell@stokeswagner.com> wrote:

Kevin,

My exceptions brief is due today. I was on track to have my office e-file this today around 5 pm ET, when around 2:45 pm a fire alarm in the building where I live in Atlanta went off. Causing me to walk down 12 flights, etc.

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